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**New Jersey Bar and
Bar of U.S. Patent Office only

July 15, 2008

Via ECF

Honorable Frederic Block
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: **Pensionsversicherungsanstalt v.
Estate of Rose Eisinger a/k/a Rose Weitz, et al
U.S. District Court, Eastern District of New York
Docket No. 07-5300**

Dear Judge Block:

We are the attorneys for plaintiff in the above. We reply to Mr. Silverman's letter of July 11, 2008 requesting a pre-motion conference and permission to file a motion to dismiss this action against defendant Sonja Rosenbaum ("defendant") under Rule 12(c).

We represent the Austrian Pension Institute (Pensionsversicherungsanstalt) which paid a widow and disability pension to defendant's mother-in-law, Rose Eisinger ("decendent"). The decendent died on October 4, 1989. Under Austrian law, her pension entitlement, therefore, terminated with the month of her death. However, for a period of *seventeen (17) years*, someone in the Rosenbaum household evidently regularly submitted falsely notarized life certificates which purported to show that decendent was still alive. Alphons Rosenbaum died on September 26, 2005.

Thus, falsely led to believe that decendent was still alive, the Austrian Pension Institute continued to pay decendent's pension through May 2006 in a total sum of €109,247.13.

Defendant is Alphons's widow and distributee. Plaintiff has sued her for unjust enrichment. The matter has been referred to mediation and we have had one telephonic meeting with the mediator so far. The next mediation is scheduled for September 3, 2008. It is hoped that on or before that date we will have located and served the defendant Gladys Robinson who was the notary on the false life certificates from 1990-99. Although, plaintiff has voluntarily provided defendant with its relevant file in the matter, we have had to date *no* discovery from defendant.

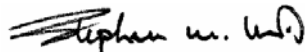
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As stated *In re Adelpia Communications Corp.* 317 B.R. 612, 622 (Bkrtcy.S.D.N.Y.2004), wherein a summary judgment motion for unjust enrichment was opposed on the ground that discovery was not complete, “Rule 56(f) plays an important, and many might say critical, role where summary judgment is sought based on facts uniquely known to the moving party. There, basic fairness requires that the party opposing summary judgment have access to facts that might be relevant to the merits and that the nonmoving party otherwise might not know or be able to present.” Here, we have nothing but the bald statement from defendant’s counsel that defendant’s estate “...consisted of nothing other than personal effects.” Counsel has also written that defendant was Alphons’s “sole distributee,” however, in our first mediation counsel confirmed that Alphons left a son, Len Rosenbaum, and daughter. We have had no discovery relating to Alphons’s finances; how Alphons and defendant lived and provided for themselves; whether defendant was in any manner the household beneficiary of the ill-gotten pension proceeds. As raised at mediation, following defendant’s deposition, plaintiff may be advised to implead Alphons’s children.

Accordingly, we submit that defendant’s proposed motion to dismiss is premature and will be a waste of attorneys’ time and precious court resources.

Respectfully,

A handwritten signature in black ink, appearing to read "Stephen M. Harnik".

Stephen M. Harnik (SH 9889)

SMH:sc
encl.

CC: Lewis R. Silverman, Esq., attorney for defendant Sonja Rosenbaum
Thomas J. Mortati, Esq., attorney for defendant Greenblatt